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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,155	04/16/2004	Jeffrey E. Church	08049.0939	7838
22852	7590	08/09/2006	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			MCCREARY, LEONARD	
			ART UNIT	PAPER NUMBER
			3616	

DATE MAILED: 08/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/825,155	Applicant(s) CHURCH ET AL.	
	Examiner Leonard J. McCreary, Jr.	Art Unit 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/22/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc. The phrase "an embodiment consistent with the invention is" should be deleted from line 1.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-2, 6, 8, and 10 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites the limitation "the upper portion" in lines 3-4. Claim 2 recites the limitation "the horizontal portion" in line 2, "the thickness" in line 3, and "the upper portion" in line 3. Claim 6 recites the limitation "the length" in line 1. Claim 8 recites the limitation "the shank" in line 2. Claim

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10 recites the limitation "the removable loop." There is insufficient antecedent basis for these limitations in the claims.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2 and 6-7 stand rejected under 35 U.S.C. 102(b) as being anticipated by US 2,626,176 to Braun. Braun discloses hook comprising the following:

- a. A hook portion having an opening (defined by 14, 15, 16); a loop portion 17, said loop portion comprising an opening for receiving a strap 18 therethrough (claim 1.)
- b. The hook portion is an inverted U-shape where a horizontal portion 15 of the U-shaped hook section has a length approximately a thickness of an object 21 the hook portion is to engage (Fig. 3) (claim 2.)
- c. A length 16 of a catch section of the hook is approximately three times the length of a top engaging section 15 (claim 6.)
- d. The hook portion and the loop portion are integral portions of a one-piece unit (Fig. 1) (claim 7.)

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The recitation "an apparatus for enabling a securing strap to reliably secure a container" has not been given patentable weight, because it has been held that a preamble is denied the effect of a limitation where the claim is drawn to a structure and the portion of the claim following the preamble is a self-contained description of the structure not depending for completeness upon the introductory clause. *Kropa v. Robie*, 88 USPQ 478 (CCPA 1951.)

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-5 and 8 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US 2,626,176 to Braun in view of US 6,081,975 to Norrby. The disclosure of Braun is discussed above. Braun does not teach an elongated loop, a triangular loop, or welding. Norrby discloses a hook comprising the following:

e. The hook portion 5 is an inverted U-shape where the horizontal portion of the U-shaped hook section has a length less than the thickness of the upper portion of the object the hook portion is to engage (claim 3.)

f. The loop portion 1,2 includes an elongated opening disposed to receive said strap (claim 4.)

g. The loop portion is generally triangular (Fig. 5) (claim 5.)

h. The loop portion is made by welding (col 3, lin 10-14) an end of round rod (col 2, lin 39-40) back onto a shank 4 of the apparatus (claim 8.)

5. Re claim 3, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the hook of Braun to include a horizontal portion having a length less than the thickness of the object which the hook engages as taught by Norrby so as to eliminate a gap between the hook and the load and thus eliminate shifting. Re claim 4, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the hook of Braun to include an elongated opening to receive a strap as taught by Norrby so as to accommodate straps made of synthetic fiber webbing as are old and well-know in the art of transport. Re claims 5 and 8, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the hook of Braun to include a triangular welded portion as taught by Norrby so as to reduce the complexity of the bending process and to increase the strength of the hook under load.

1. Claims 9-15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,083,312 to Holman, Jr. in view of US 873,488 to Beaumont, and further in view of US 6,081,975 to Norrby. Holman discloses a load holder end fitting comprising the following:

a. An elongated strap 28 having a length that is changeable to be approximately the length of three sides of said container (Fig. 5) , at least one end of said strap having a mechanical attachment 32 detachably affixing at least

one end of said strap to an interior wall 12 of said walled cargo container 48 (claim 9.)

b. A method of securing a container 48 to a wall 12, comprising: placing a container having four sides with one side abutting the wall; providing a strap 28 detachably affixable to the wall, affixing a first end of said strap to the wall, and affixing the second strap end to the wall to exert a force on said container primarily in a direction toward said wall (claim 10.)

c. Changing the length of said strap before securing the second strap end to the wall (claim 11.)

d. Changing the length of said strap after securing the second strap end to the wall (claim 12.)

e. Said strap is non-elastic and has an adjustable length (claim 13.)

f. The strap is elastic such that said strap has an adjustable length (col 1, line 51) (claim 14.)

2. Holman does not teach a strap movement-restraining member. Beaumont discloses a clothes line hook and teaches the following:

g. A strap movement-restraining member having a hook portion disposed to engage the upper portion of a wall, said hook portion being generally an inverted U-shape with the horizontal portion of the U-shaped section having a length approximately the thickness of the upper portion of the wall, said restraining member further having a loop portion 1c disposed to be below said hook portion,

said loop portion comprising an opening for receiving said strap therethrough
(Fig. 4) (claim 9.)

h. A strap movement-restraining member on the upper edge of a wall, the
strap movement-restraining member having a hook portion for engaging said
edge and a loop portion 1c for receiving said strap (claim 10.)

3. Beaumont teaches neither a loop portion which completely surrounds the strap,
nor fabrication of the hook. Norrby discloses a hook for webbing and teaches the
following:

i. A loop portion 1,2 completely surrounding said strap within said opening
(claim 9.)

j. A loop portion 1,2 having an opening surrounding said strap, and passing
a second end of said strap through the opening in the loop (claim 10.)

k. The member is made of round rod stock (col 2, lin 40) with one end
welded back on itself to form the opening of the loop portion (col 3, lin 14) (claim
15.)

Re claims 9-10, it would have been obvious to one of ordinary skill in the art at the time
of invention to modify the load holder of Holman to include a strap-retaining member as
taught by Beaumont so as to support a strap that would otherwise be inclined to slip
downwardly. Re claims 9-10 and 15, it would have been obvious to one of ordinary skill
in the art at the time of invention to modify the hook of Beaumont to include the loop
portion and fabrication method as taught by Norrby so as to prevent the strap from
leaving the loop portion even under heavy loading.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonard J. McCreary, Jr. whose telephone number is 571-272-8766. The examiner can normally be reached on 0700-1700 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Leonard J. McCreary, Jr.
Examiner
Art Unit 3616



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